

MEMORANDUM

TO: Members, Clark Fork Basin Water Management Task Force (Task Force)
FROM: Gerald Mueller
SUBJECT: Summary of the October 23, 2006 Task Force Meeting
DATE: October 25, 2006

Participants

The following people participated in the Task Force meeting:

Task Force Members:

Bill Slack	Flathead Joint Board of Control
Fred Lurie	Blackfoot Challenge
Nate Hall	Avista
Arvid "Butch" Hiller	Mountain Water Company
Jim Dinsmore	Granite Conservation District
Marc M. Spratt	Flathead Conservation District/Flathead Chamber of Commerce
Gayle Patton	Sanders County Commissioner
Matt Clifford	Clark Fork Coalition

Staff:

Gerald Mueller	Consensus Associates
----------------	----------------------

Meeting Agenda

- September 11, 2006 Meeting Summary
- House Joint Resolution 3 Implementation Update
- DNRC Implementation of the TU Vs. DNRC Supreme Court Decision
- Ground Water Conferences
- Policy Paper
- Task Force Work Plan and Funding
- USFS Compact
- Public Comment
- Next Meeting

September 11 Meeting Summary

The Task Force made no change to the September 11 meeting summary.

HJR 3 Update

Gerald Mueller passed out copies of his memo summarizing the September 25, 2006 meeting between Mary Sexton and DNRC staff and Bill McDonald, Regional Director of the Pacific Northwest Region of the U.S. Bureau of Reclamation (BOR), and his staff. See Appendix 1. Subsequent to that meeting, state officials met to consider next steps regarding a possible Hungry Horse contract. According to Rich Moy, DNRC's Water Management Bureau Chief, the state will shortly send a letter to Mr. MacDonald asking the BOR to project the cost of the contracting process for a request for 50,000 acre/feet of Hungry Horse water. DNRC does not necessarily believe that only 50,000 acre/feet of water is needed, but under an existing statute, the state is limited to marketing no more than that amount. The letter will ask for the cost and timeline for just a new allocation of the remaining Hungry Horse project costs (\$12 million) and also for completing the entire contracting process. The new allocation would include municipal and

industrial uses as well as hydro power, flood control, and irrigation uses in the Clark Fork Basin. The Task Force discussed the need to have an answer to these questions so that DNRC can make a request for the appropriate amount of funding from the next legislature.

Mr. Mueller stated that a recent *Missoulian* news story reported the interest of the Flathead Lakers in using Hungry Horse water to keep Flathead Lake elevations up. The same story quoted DFWP's Brian Marotz as arguing that a better solution for the lake would be to control the out flows because higher lake elevations will increase shoreline erosion. The Task Force agreed that an effort should be made to invite a member of the Flathead Lakers to serve on the Task Force. Gerald Mueller will follow up on a membership invitation.

DNRC Implementation of the TU Vs. DNRC Supreme Court Decision

Gerald Mueller passed out copies of two DNRC documents related to the department's implementation of the Montana Supreme Court ruling in TU vs. DNRC. See Appendix 2. The first is a June 15, 2006 memo from Kim Overcast to DNRC water resources regional managers and new appropriations staff. A key section of the memo reads:

As a result of the recent Court decision, in addition to the cone-of-depression test data, DNRC must also require a water right applicant provide information that proves that the ground water they seek to use *does not at any time capture prestream tributary ground water (emphasis added)*.

The application of the Court case only applies to the Upper Missouri Basin, the Teton River Basin, and the Jefferson/Madison Basin closure areas. It does not apply to the Bitterroot and the Upper Clark Fork Basin closures.

The second document is a June 26, 2006 memo from Bill Schultz, DNRC Missoula Regional Manager, and addresses surface and groundwater connection in the Bitterroot and Upper Clark Fork basin closure areas. This memo states in part:

In the Bitterroot River Basin, if it is found that pumping a well reduces surface water flow then there is a high probability that the applicant cannot meet the criteria for issuance found in Mont. Code Ann. § 85-2-311. This is not to say that DNRC cannot process the permit through public notice. However, for the application to be issued, the applicant must address impacts to existing senior surface water users. Therefore, groundwater applications in the Bitterroot River must address groundwater/surface water connectivity to adequately address adverse impact criteria. In the Upper Clark Fork River Basin Closure, the applicant must address groundwater/surface water connectivity per statutory requirements described in 85-2-337. If groundwater is a part of or substantially or directly connected to surface water the DNRC may not issue the permit unless the augmentation requirements of subsection (3) are met...if an application is shown to adversely impact surface water in the Bitterroot River Basin, the applicant can mitigate the impacts by augmentation.

The significance of these documents to the Clark Fork basin is that when considering the adverse effect test in reviewing groundwater permit applications, DNRC will now consider both water pulled from surface water (the "cone of depression test") and prestream capture of tributary groundwater, water that would have flowed to a surface water body if it was not captured by a

well. While the two documents specifically address groundwater permitting in closed basins, the DNRC is also applying both tests to all groundwater permit applications. Inclusion of prestream capture of tributary water will make groundwater water right permits more challenging to obtain.

Ground Water Conferences

Policy Conference - Mr. Mueller stated that he has emailed conference brochures to the technical conference registrants, the basin county commissions, basin local government planners, and engineering firms. Dr. David Shively, UM Dept. of Geography, is contacting the academic community. Mike McLane has mailed paper copies of the brochure to some 400 individuals, firms, and agencies. Mr. Mueller has also emailed each of the November 9 conference panelists to confirm their participation. Gayle Patton agreed to telephone the commissioners from Powell, Lake, and Ravalli County who previously agreed to be panel members.

Technical Conference - Mr. Mueller passed out a copy of the registration list for the Technical conference, which included over 90 names. Marc Spratt reviewed the power point of his conference wrap up, which is available at <ftp://ftp3.state.mt.us/dnrc/mclane/Technical%20Conf%20ppts>. Will Harmon is preparing a summary of the conference. Some of the main points which Task Force members took away from the conference included:

- The Clark Fork has extremely variable conditions with annual precipitation varying from 6" to 100";
- Groundwater models come in conceptual, analytical and numerical varieties;
- Groundwater models are not management tools; rather they aid our understanding of aquifers and help us create management tools;
- Our basins are now non-natural hydrologic systems;
- Courts often determine how groundwater management will occur;
- Courts base their decisions on the rules provided to them; we face a choice of getting out in front of courts by influencing the rules or reacting to what the courts tell us;
- Integrating groundwater managing into the surface water-driven "first-in-time, first-in-right" allocation system will be difficult;
- We need a centralized and managed groundwater data base; and
- We need to define a water management goal for the basin, such as producing flow regimes that meet other resource goals.

In response to this discussion, the Task Force agreed to seek a partnership with the Montana Bureau of Mines and Geology to pursue action by the next legislature to:

- Set uniform reporting requirements for well log and pump test data;
- Require well drillers to record and report geophysical data;
- Require all groundwater data collected using public funds to be included in GWIC; and
- Fund a full-time GWIC editor FTE.

Additionally, the Task Force will discuss with its members who are legislators the best strategy for seeking re-establishment of the legislative water policy committee.

Policy Paper and Task Force Work Plan

The Task Force has previously discussed preparing a white paper on the status of the first-in-time, first-in-right water allocation system and management system. Task Force members generally agreed that such a paper would be a long-term project. For the next legislature, the Task Force agreed to prepare a paper on the benefits that Hungry Horse water can provide for the

basin's water users. Mr. Mueller will prepare the first draft of the paper and circulate it to Task Force members prior to its next meeting.

Task Force Work Plan and Funding

Task Force funding runs out at the end of this fiscal year. The funding for FY06-07 came from an appropriation obtained by Rep. Jackson from RIT funds in excess of the \$100 million cap. Gerald Mueller reported on a conversation with John Tubbs, Chief of the DNRC Resource Development Bureau, about the possibility of again using this source of funds. Mr. Tubbs stated that this may be possible, and that an initial step in this direction would be to prepare a one page budget summary and justification. The Task Force discussed an initial draft of such a document prepared by Mr. Mueller. See Appendix 3. The Task Force members asked Mr. Mueller to redraft the budget summary for consideration at the next meeting. The budget total should be increased to support the following work plan items:

- Providing education and outreach about the potential state contract for Hungry Horse water;
- Holding one or more conferences on coordinated basin water management, water management tools, and groundwater/surface water management;
- Preparing and distributing policy papers; and
- Continuing to address challenges to the first-in-time, first-in-right water allocation system and management system.

USFS Compact

Marc Spratt summarized the draft state-USFS water rights compact. The compact would change state water law to allow USFS expedited water reservations to protect instream flows on some 750 streams. It would assure USFS with standing to object to water right claims before the Montana Water Court. In return, USFS would forgo reserved water rights. Mr. Spratt asked the Task Force to consider taking a position on the compact. Gerald Mueller stated that he would email copies of the draft compact and its implementing legislation to Task Force members prior to the next meeting, and that the compact would be included on the next meeting agenda.

Public Comment

There was no additional comment.

Next Meeting

The next meeting was scheduled for the second Monday, November 20. The agenda will include:

- HJR 3 Update
- Groundwater conference followup
- Discussion of possible Task Force position on the USFS Compact
- Discussion of Hungry Horse white paper (How Hungry Horse Water Can Benefit Clark Fork Basin Water System)
- Task Force-Bureau of Mines and Geology ground water data legislation
- Task Force 2008-2009 work plan and budget

Appendix 1
Clark Fork River Basin Task Force
C/O Gerald Mueller
440 Evans
Missoula, MT 59801
(406)543-0026

MEMORANDUM

Date: September 28, 2006
To: Clark Fork Task Force
From: Gerald Mueller
RE: DNRC-BOR Hungry Horse Meeting Report

Meeting Participants

Representatives of the Department of Natural Resources and Conservation and the Bureau of Reclamation met on Monday, September 25. Mary Sexton led the meeting. Bill MacDonald, Director of BOR's Pacific Northwest Region out of Boise led the BOR personnel. I and the representative of the CS&KT and the Reserved Water Rights Compact Commission were invited to participate in the discussion. The list of meeting participants is attached below.

Meeting Agenda

The meeting agenda included the following topics:

State

Background/State Interests
Water rights overview
House Joint Resolution 3
Water available for future growth
Mitigation water for junior uses

BOR

Hungry Horse Project Overview
Authorized purposes
Reservoir capacity - water availability
Water rights
Current operations

Contracting process

NEPA, ESA, ITA compliance activities
Revised cost allocation
Ability-to-pay study (irrigation only)

Next Steps

Key Meeting Points

Key points during the discussion included:

- The BOR does not see contracting with the state as a problem, but the "devil will be in the details."
- The state as the entity making the contract request must pay for BOR's contracting process.

- BOR estimates that finalizing a contract will take on the order of 2 to 3 years and \$2 to 3 million. State payment must be up front, but actual payments may be made quarterly.
- The first step in the process is a new allocation of the project costs. The current allocation is 70% to power generation and 30% to flood control. Flood control's allocation is born by the US tax payers. The new cost participants would be irrigation and municipal and industrial.
- The cost assigned to irrigation would be subject to irrigators' ability to pay, which is determined by a study. (Usually, irrigators are judged to have no or a small ability to pay.)
- The new cost allocation is subject to Congressional approval. (No action by the appropriate committee is deemed as approval.)
- The amount of the project construction cost remaining to be allocated is \$12 million.
- The state could contract for a block of water over the contract life, but would not pay for the water until it is used.

Next Steps

Staff of DNRC and BOR will meet to discuss the details of the contracting process.

Discussion

Please note that the following discussion is based on my ideas and interpretations and may not constitute DNRC's or BOR's views.

Water Uses - DNRC did not state the details of a contract request, i.e. the amount and timing of the water from Hungry Horse. BOR did not request these details at this meeting, but made it clear that the official contract request would need such information. For example, BOR would have to know for its repayment ability to pay study how much water would go to irrigators, including new irrigation and existing uses junior to the hydropower rights, and how much would go to municipal and industrial uses. Rich Moy told me that existing statutes limit the amount of water the state is authorized to market to 50,000 acre-feet. BOR agreed that the state could make a series of contracts for this amount. In other words, after the first 50,000 acre-feet was used, the state could contract for an additional 50,000.

Process Fee Sequence - The largest expense in the contracting process will be for the environmental impact study (EIS). It may be possible for the state to pay a relatively small amount to conduct the new cost allocation study before moving ahead with the EIS.

Legislative Appropriation - The legislature will have to appropriate the funds to pay the BOR to conduct the contracting process.

Amount of the Fee - Rich Moy apparently believes that to be credible the fee for a contract for only 50,000 acre-feet would have to be less than \$2-3 million.

DNRC-BOR Hungry Horse Meeting Participants
September 25, 2006

Mike McLane	DNRC
Tim Bryggman	DRNC
Mary Sexton	DRNC
Bruce Measure	Montana Member, Northwest Power and Conservation Council
Rich Moy	DNRC
Steven Brawley	USBOR - Boise
Karl Wirkus	USBOR - Boise
Bill MacDonald	USBOR - Boise
Ryan Patterson	USBOR - Boise, water marketing
John Chaffin	Department of Interior - Solicitor's Office
Gail M ^c Garry	USBOR - Boise, water rights
John Carter	Confederated Salish and Kootenai Tribes
Susan Cottingham	Montana Reserved Water Rights Commission
Gerald Mueller	Clark Fork Task Force

Memo

Appendix 2

WATER RIGHTS BUREAU NEW APPROPRIATION'S PROGRAM

TO: Water Resources Regional Managers and New Appropriations Staff
FROM: Kim Overcast, New Appropriations Program Manager
SUBJECT: Implementation of Supreme Court Case entitled *Trout Unlimited v. DNRC*
DATE: June 15, 2006

BACKGROUND

In 1993, basin closure statutes were passed in the Upper Missouri, Teton, and Madison-Jefferson drainage basins. The laws allowed DNRC to process water right permit applications if the applications were for stock, domestic, non-consumptive, or municipal purposes or for ground water that was not immediately or directly connected to surface water. The term “immediately or directly connected to surface water” was not defined in statute. The DNRC interpreted immediately or directly connected to mean ground water that was pulling surface water into the “cone-of-depression”. If the cone-of-depression created by pumping a well at the flow and volume requested caused surface water to be drawn into the well, then the application could not be processed. If DNRC accepted a ground water application, an objector to the application could disagree with the DNRC’s decision and raise the issue at a hearing.

In July of 2003, Trout Unlimited (TU), irrigators, and outfitters filed a lawsuit against DNRC claiming in part that the manner in which DNRC made the determination that an application could be accepted was improper and that DNRC’s definition of immediate or direct affect was too narrow. DNRC and TU came to an agreement on how to determine if a ground water application could be accepted. The stipulation required that a DNRC hydrologist determine if an applicant had submitted sufficient data to determine if the cone-of-depression would or would not intercept surface water.

On April 11, 2006 the Montana Supreme Court determined that DNRC’s interpretation of “immediately or directly” failed to account for impacts to surface flow caused by the prestream capture of tributary groundwater. The Court stated that DNRC’s interpretation recognizes only immediate connections to surface flow caused by induced infiltration and ignores the less immediate, but no less direct, impact of the prestream capture of tributary groundwater.

As a result of the recent Court decision, in addition to the cone-of-depression test data, DNRC must also require a water right applicant provide information that proves that the ground water they seek to use does not at any time capture prestream tributary ground water.

The application of the Court case only applies to the Upper Missouri Basin, the Teton River Basin, and the Jefferson/Madison Basin closure areas. It does not apply to the Bitterroot and the Upper Clark Fork Basin closures.

RETROACTIVITY

As a result of a final order issued by a Department hearings examiner, all undecided applications located in the Upper Missouri Basin, the Teton River Basin, and the Jefferson/Madison Basin

closure areas are subject to the Court's ruling. This includes permit applications in the following processes:

- 1) An application for ground water where the immediate or direct determination and the correct and complete determination have been made, but the application has not been publicly noticed
- 2) An application that has been publicly noticed and the objection deadline has not ended
- 3) An application that has been publicly noticed and objections were not received
- 4) An application that has been publicly noticed and objections were received
- 5) An application that has had a procedural order issued from the hearings unit
- 6) An application that has a hearing date set
- 7) An application where the hearing has been held, but no Proposal for Decision has been issued
- 8) An application where the hearing has been held and a Proposal for Decision has been issued, but no exceptions were filed
- 9) An application where the hearing has been held and a Proposal for Decision has been issued and exceptions have been filed or an oral argument has been requested
- 10) An application where the hearing has been held, the Proposal for Decision has been issued, an oral argument has been held, but no final decision has been issued

For applications on which the DNRC has issued a final decision as of April 11, 2006, such as through a Final Order, the Court decision will not be retroactively applied.

PROCEDURAL ACTION

- 1) The Central Office will provide a list to the Regional Offices of all pending applications located within the applicable basin closure areas. The Regional Office will review the list and let the Central Office know of any corrections.
- 2) For a pending application for ground water, which does not fall under another exception allowed in the statute, the Water Rights Bureau will mail the attached letter "A" to the applicant and will enclose a copy of the TU decision.
- 3) Upon receipt of the information requested in letter "A", the Regional Office will mail the original application with all of the applicant's information to the Department's ground water hydrologist.
- 4) The Department hydrologist will review the application data and provide written documentation stating that the applicant has or has not proven that the ground water they propose to use is not capturing prestream tributary ground water. If it is proven that the ground water is not capturing prestream tributary ground water, then the hydrologist will evaluate whether the applicant has submitted sufficient data to determine if the cone-of-depression would or would not intercept surface water.
- 5) If the applicant meets both tests, the application can move forward and a decision on whether the application is correct and complete can be made.
- 6) If the applicant has not met both tests, attached letter "B" will be sent to the applicant with a copy to the Central Office along with a copy of the hydrologist's report. The application will be terminated.

- 7) If an application is for ground water, but meets one of the other exceptions allowed by statute, the applicant will not be sent letter A. The Department will accept the application and will then determine if the application is correct and complete.

NEW APPLICATIONS

1. The Regional Office will accept the application and transmit the filing fee.
2. The Regional Office will mail Letter A to an applicant who does not meet any exception and allow 90 days from the date of the letter to submit the required information.
3. Follow the steps from 3) above.

June 26, 2006

To: Missoula Regional Office, New Appropriations Program

From: Bill Schultz, Regional Manager

Subject: Implementation of Bitterroot and Upper Clark Fork Basin Closures & Surface Water /Ground Water Connection

Background: On June 16, 2006, a conference call was held to discuss the issues and questions raised in Bill Schultz's June 2, 2006 memorandum to Terri McLaughlin and Kim Overcast (copy attached). The memorandum was in regards to **implementation of the Bitterroot and Upper Clark Fork Basin closures** and the issue of surface and groundwater connection as it applies to processing permit applications. In attendance were Tim Hall, Kurt Hafferman, Terri McLaughlin, Kim Overcast, Bill Schultz and Jim Nave.

Tim Hall started discussion by clarifying that the **difference between the Upper Missouri River Basin closures and the Upper Clark Fork and Bitterroot closures** is that in the Upper Missouri River closure the applicant must demonstrate that the groundwater to be appropriated is not immediately or directly connected to any source of surface water prior to DNRC's being able to process the application. In the Upper Clark Fork and Bitterroot Closures, DNRC can accept and process an application prior to determining if there is a groundwater/surface water connection. The main difference between DNRC's processing applications in the Upper Clark Fork and Bitterroot River Basins is that a report addressing the connectivity of groundwater to surface water must be submitted with a groundwater application in the Upper Clark Fork Basin.

Bill Schultz brought up the point that the new appropriation rules regarding Basin Closure Area Exceptions and Compliance found in 36.12.120 ARM may at times conflict with the statutory requirements of the Upper Clark Fork and Bitterroot River Basins. Tim Hall's response was that **if there is a conflict between the new appropriation rules and the statutes, the statute prevails.**

Bill Schultz's June 2, 2006, memorandum raised four questions regarding the issues with groundwater/surface water connectivity as it applies to processing permit applications in the Bitterroot and Upper Clark Fork closure areas. Tim Hall's response to the first and second questions is that DNRC can and should consider whether or not a proposed groundwater appropriation will adversely impact surface water flows when processing an application. **In the Bitterroot River Basin, if it is found that pumping a well reduces surface water flow** then there is a high probability that the applicant cannot meet the criteria for issuance found in Mont. Code Ann. § 85-2-311. This is not to say that DNRC cannot process the permit through public notice. However, **for the application to be issued, the applicant must address impacts to existing senior surface water users.** Therefore, groundwater applications in the Bitterroot River must address groundwater/surface water connectivity to adequately address adverse impact criteria. In the Upper Clark Fork River Basin Closure, the applicant must address groundwater/surface water connectivity per statutory requirements described in 85-2-337. If groundwater is a part of or substantially or directly connected to surface water the DNRC may not issue the permit unless the augmentation requirements of subsection (3) are met.

To answer the third question raised in the June 2, 2006 memorandum, **if an application is shown to adversely impact surface water in the Bitterroot River Basin, the applicant can mitigate the impacts by augmentation.** The amount of augmentation water must mitigate the adverse affect, but not necessarily the total water depletion (but they may often be the same thing). In the Upper Clark Fork River Basin, the applicant must augment the total water depletion. Subsection 2 and 3 of Mont. Code Ann. § 85-2-337 allow for augmentation.

The final question raised in Bill Schultz's June 2, 2006 memorandum was **what is considered a municipal use as it applies to basin closure exceptions**. The “municipal use” definition at 36.12.101(39) has been withdrawn and a new definition has not been adopted. **If the use is solely for homes, with no other uses such as commercial, then the use is to be considered multiple domestic**. For other proposed uses that involve a combination of domestic and commercial or other uses consult the central office on a case-by-case basis to determine if the proposed use and applicant qualifies as municipal.

The memo above is in response to the issues raised in the June 2 memo below:

June 2, 2006

To: Terri McLaughlin, Chief, Water Rights Bureau
Kim Overcast, Manager, New Appropriations Program

From: Bill Schultz, Manager, Missoula Regional Office

Subject: Bitterroot Closure & Surface/Groundwater Connection

During the discussion regarding the Smith River Supreme Court decision at the Regional Managers meeting on May 18 I raised questions regarding the Bitterroot closure. Kim and Tim Hall agreed that the questions warranted further thought and discussion. Kim stated that she would “set something up” (a meeting?). The purpose of this memo is to define the issues and questions, stimulate the discussion, and hopefully get some answers. There are several groundwater applications pending and more major subdivisions with community water systems that will be submitting their water right applications soon.

In Tim Hall’s May 4, 2006 memo to Mary Sexton regarding “TU Supreme Court Case Implementation”, under relationship to the Bitterroot Closure, the memo states “Cases would continue to be decided as they normally would be on the “311” criteria (adverse effect).” **This raises the following questions concerning groundwater applications in the Bitterroot Closure:**

- For a new groundwater application for a municipal supply (an exception in the Bitterroot Closure) where the aquifer test and analysis indicates that the proposed well will **result in induced streambed infiltration** -- will this be considered grounds for not meeting the legal availability and adverse effect criteria? If the aquifer test indicates that the proposed well **will result in prestream capture of tributary groundwater**, will this be considered grounds for not meeting legal availability and adverse impact criteria?
- For a new groundwater application that is not for a municipal supply, but otherwise the same scenario as above, are the answers the same?
- **If the response to either of the previous two bullets is yes, is augmentation allowable to mitigate adverse effects, physical, and legal availability criteria in the Bitterroot?**
- Is a community water system serving a proposed subdivision considered a “municipal use” and therefore meets the exception listed in the Bitterroot Closure? What is the current definition of “municipal” as it is used in closure exceptions?

Your response is appreciated.

Appendix 3

Clark Fork River Basin Task Force

2007-2008 Budget Request

Request

The Clark Fork River Basin Task Force (Task Force) requests a total of \$60,000 for the biennium, or \$30,000 per year. This funding would allow the Task Force to continue to carry out its mandate set out at 85-2-350 MCA and discussed below. The annual budget request breakdown is as follows:

Facilitator Costs (salary and expenses) -	\$20,000
Task Force Costs (meeting costs & member mileage) -	\$5,000
Project Costs (printing, meetings, etc.) -	\$5,000
Total	\$30,000

Background

The Task Force was created in 2001 pursuant to 85-2-350 MCA. Its members are chosen by the the DRNC Director to ensure both geographic and water interest representation of the Clark Fork River basin. A list of the current members is attached. In September 2004, the Task Force adopted the *Clark Fork Basin Watershed Management Plan (Plan)*, which addressed the protection of existing water rights and the future development and conservation of basin water. Most of the *Plan's* recommendations were adopted into the State Water Plan. Two key issues identified in the *Plan* include the constraints imposed by lower basin hydropower rights on both future water development and existing uses based on water rights junior to the hydropower rights, and the increasing importance of groundwater for future water development. The *Plan* found that more information is needed about basin groundwater. In response to the first issue, the Task Force won approval in the 2005 legislature of HJR3, which directed the DNRC to negotiate with the Bureau of Reclamation concerning the amount and cost of water stored in Hungry Horse Reservoir that the state might obtain through a contract to support existing and future basin water uses. These negotiations have just begun. Concerning the second issue, the Task Force convened in the fall of 2006 two groundwater conferences, one focused on technical concerns and one on policy concerns.

Task Force Benefits

As just stated, the Task Force has provided the means for a balanced group of basin water interests to make important contributions to addressing basin water issues. Important issues remain. Basin water management is changing in response to the recent TU vs. DNRC Supreme Court decision, the ongoing water right adjudication, and administrative acknowledgment of the lower basin hydropower water rights on the legal availability of water for new water rights. Practical means for integrating groundwater into the "first-in-time, first-in-right" water rights system of water administration and for accommodating surface and groundwater interactions must be found. The Hungry Horse negotiations must be pursued. Growth related water development challenges, including subdivision regulation, must be faced. With the requested funding over the next biennium, the Task Force can continue making important contribution to these and other issues.